

HOUSE BILL NO. 269

INTRODUCED BY CLARK, COHENOUR, DOWELL, HARRIS, VILLA

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT A STATE OR COUNTY HIGHWAY, ROAD, OR RIGHT-OF-WAY THAT PROVIDES EXISTING LEGAL ACCESS TO PUBLIC LAND OR ~~PUBLIC~~ WATERS, INCLUDING ACCESS FOR PUBLIC RECREATIONAL USE, MAY BE ABANDONED ONLY IF ANOTHER PUBLIC HIGHWAY, ROAD, OR RIGHT-OF-WAY PROVIDES SUBSTANTIALLY THE SAME ACCESS; AMENDING SECTIONS 7-14-2615 AND 60-2-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-14-2615, MCA, is amended to read:

"7-14-2615. Abandonment or vacation of county roads. (1) All county roads once established must continue to be county roads until abandoned or vacated by:

(a) operation of law;

(b) judgment of a court of competent jurisdiction; or

(c) the order of the board.

(2) An order to abandon a county road is not valid unless preceded by notice and public hearing.

(3) The board may not abandon a county road or right-of-way used to PROVIDE EXISTING LEGAL access ~~TO public land or public TO ACCESS~~ waters, including access for public recreational use as defined in 23-2-301 AND AS PERMITTED IN 23-2-302, unless another public road or right-of-way provides substantially the same access.

(4) The board may not abandon a county road or right-of-way used to access private land if the access benefits two or more landowners unless all of the landowners agree to the abandonment."

Section 2. Section 60-2-107, MCA, is amended to read:

"60-2-107. Abandonment of highways -- exchange of roadways -- public notice required. (1) The commission may abandon highways on the federal-aid systems and state highways.

(2) Before abandoning or discontinuing maintenance on a highway, the commission shall hold a public hearing in the county or counties affected by the abandonment. The commission may elect to offer to transfer

1 the liability for and the maintenance of a highway to another agency or agencies that may in turn elect to take
2 responsibility for the highway. The commission shall notify the board of county commissioners in writing of its
3 intent to abandon a highway and hold a public hearing. The commission shall publish for 3 consecutive weeks
4 in local newspapers within the county the notice of abandonment and public hearing.

5 (3) The commission may enter into an agreement with a unit of local government, on mutually beneficial
6 terms, to exchange property interests or responsibilities, including maintenance, on any portion of a federal-aid
7 or state highway and on any portion of a county road or city street.

8 (4) The commission may not abandon a highway, road, or right-of-way used to PROVIDE EXISTING LEGAL
9 access TO public land or TO ACCESS public waters, including access for public recreational use as defined in
10 23-2-301 AND AS PERMITTED IN 23-2-302, unless another highway, road, or right-of-way provides substantially the
11 same access.

12 (5) The commission may not abandon a highway, road, or right-of-way used to access private land if
13 the access benefits two or more landowners unless all the landowners agree to the abandonment."
14

15 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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